



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 ROGERS BOULEVARD, SUITE 700
HONOLULU, HAWAII 96819-1880

BRIAN K. MINAMI
DIRECTOR

DEPUTY DIRECTORS
GLENN M. OKIMOTO
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IN REPLY REFER TO:

AIR-P
01.0205

May 1, 2001

Ms. Catherine M. Lang, Director
Office of Airport Planning and Programming
800 Independence Ave., S.W.
Washington, D.C. 20591

Dear Ms. Lang:

Subject: Kahului Airport Competition Plan

As requested in your March 19, 2001 letter, the attached information is provided regarding the subject Plan (Competition Plan).

1. Provide a copy of the Airport-Airline Lease Extension Agreement and the Administrative Rules governing charges assessed on non-signatory airlines.

See attached Airport-Airline Lease Extension Agreement and Hawaii Administrative Rules (HAR) Chapters 19-16.1, 19-16.1-3, 19-16.1-4, and 19-16.1-5.

2. Number of gates or other facilities covered by leases and type of leases executed.

As stated in the Competition Plan, the Airports Division owns, in fee, the terminal facilities at Kahului Airport. However, there are facilities within the terminal that are under long-term exclusive use leases. These facilities are:

- a. Two banks of ticket counters each containing four counters.
- b. Three spaces for airline offices.
- c. Four spaces for airline ramp offices.
- d. Two spaces for baggage conveyor systems.
- e. Two spaces for baggage makeup and breakdown.

- f. Four spaces for open equipment parking.
- g. Two spaces for ramp equipment and operations.
- h. One space for ramp storage.
- i. One space for airline VIP lounge.

Other carriers are renting similar facilities under a month-to-month revocable permit. The permit authorizes exclusive use of the facilities on a month-to-month basis with the permits renewed annually by the State

- 3. Carrier's rights to non-leased gates and facilities and the nature and duration of those rights.

There are 20 loading bridges/gates connected to 10 holdrooms that are all non-leased facilities. Use of the baggage claim and tug drive at Kahului Airport are recovered through a Neighbor Island Terminal Joint Use Premises Charge. As of July 1, 2000, a rate of \$13.878 is applied to each signatory carrier passenger revenue landing. There are no provisions to charge non-signatory carriers for a Neighbor Island Terminal Joint Use Premises Charge under the existing Administrative Rules. The residual cost for operating the Statewide Airports System, which includes Kahului Airport, is recovered through the Airport System Support Charge (ASSC). Currently, signatory carriers are not assessed an ASSC. However, an ASSC is being collected from the non-signatory carriers.

- 4. Airports Division right to revoke or terminate a facilities assignment prior to the expiration date.

To terminate a month-to-month revocable permit either party, whether it is the State or the tenant, must provide a 30-day advance termination notice. Under revocable permits, the tenants cannot sublease or assign the permit to another party. For a long-term exclusive lease, a mutual agreement is needed if a lease is terminated prior to the expiration date.

5. Current usage and maximum capacity for each gate.

As stated in the Competition Plan, current gate usage averages 110 overseas and 485 interisland departures for 595 departures per week. Currently, all interisland departures are assigned to seven gates (Gates 9, 11, 13, 15, 17, 19, and 21) and two holdrooms (Holdrooms B and C). This maximizes facility usage for interisland operations, averaging 10 operations per gate each day. Overseas departures use nine gates (Gates 1, 5, 7, 23, 27, 29, 33, 35, and 39) and four holdrooms (Holdrooms A, D, E, and F). These gates handle one to four operations each day, averaging 1.7 operations each day. Obviously, the gates being used for overseas operations have significant expansion potential. However, the maximum capacity for each gate is dependent upon the airline schedule, type of operation, and type of aircraft. Without this information, maximum gate capacity cannot be calculated. However, as stated above, based on current gate usage, there is expansion potential both for overseas and interisland operations at the gates being used for overseas operations.

6. How would new entrant or expansion request be accommodated?

A new entrant or expansion request would be submitted to the Maui Airport District Office or the Airports Division Office. First, the District Office would determine if the type of space required is available. If the request desired a month-to-month tenancy and space is available and the use appropriate for the space, the Maui District Office could then initiate the necessary paperwork to allow use of the space. A revocable permit could be processed within a few weeks. However if a lease is desired, this process could take up to several months as the lease document must be reviewed and approved by three departments of the State (Department of Transportation, Land and Natural Resources, and Attorney General). If space is not available, the District Office, with the Division Office, would review and explore various alternatives such as, but not limited to, joint-uses, uses at different times, reconfiguring spaces or making alternative space available. Currently, the Maui District Office indicates they had no request for space from the carriers in the last year that could not be accommodated. Also, there are no carriers currently on a space wait list.

7. If a new carrier requests for a ticket counter or office space, how would Airports Division analyze usage of both leased and permitted space in order to accommodate the request?

As stated in the Competition Report, the existing ticket counters and airline office spaces in the ticket lobby are completely occupied, either through a lease or revocable permit. Currently, out of 56 ticket counter positions, 16 positions are under lease and 40 are under revocable permit. Historically, usage of the counters under lease averaged over 50% daily, while those under revocable permits varied from 19% to 33% daily. Because of the low usage of counters under revocable permits, the Airports Division would explore the various alternatives mentioned in No. 6 above to use a portion of these counters or use other spaces in order to accommodate new requests. The Airports Division would also examine usage of airline office spaces in the same manner to accommodate new requests.

8. How were new carrier requests accommodated and what was the length of time between requests and start of service?

In 2000, there were three increases in overseas service and one new overseas service startup. Aloha Airlines increased overseas flights from one a day to two a day. American Airlines flights increased from one a day to four a day. United Airlines flights increased from four a day to six a day. Finally, TWA started one a day service between Kahului and Saint Louis. All of these flights were accommodated at the overseas gates. For the increased flights, the carriers used facilities already under lease or revocable permit. For the new start of service, TWA contracted ground handling and ticket counter space to Hawaiian Airlines. For Aloha Airlines, TWA and United Airlines, approximately six months elapsed between the request to start service and the actual start of service. For American Airlines, three months elapsed between the requested a start of service.

9. Criteria on reviewing subleases of facilities including gates, ticket counters, baggage claim areas and equipment.

As stated in the Competition Plan, subleasing of premises under a lease is permitted with the State's prior written consent and is prohibited under a revocable permit. Attached is the Department of Transportation's Sublease Evaluation Policy. The purpose of the sublease evaluation

policy is to prevent speculation (sandwich profit) from the use of State-owned land, but at the same time, recognizes the sublessor's right to make a fair return on the investment. In summary, it states the following:

- a. The sublease rental amount cannot be an amount that would provide a large excess sandwich profit to the sub-lessor.
 - b. The term of the sublease cannot exceed the term of the lease between the sub-lessor and the State.
 - c. The use of the sublease must conform to uses allowed under the lease.
 - d. If there are conflicting terms between the sublease and the lease, the lease shall prevail.
10. Formal or informal procedures for resolving disputes concerning access, sublease fees or terms, or ground handling services.

Procedures governing disputes concerning subleases are covered under the attached Sublease Evaluation Policy. For access to completely occupied facilities, there are the following options:

- a. The carrier could build their space in open areas at the terminal.
- b. Informally request the non-signatory carriers under month-to-month revocable permit reconfigure their space to allow for access.
- c. Formally require the non-signatory carriers under month-to-month revocable permit to reconfigure their space to allow for a signatory carrier request for access.

Everything is equal between non-signatory carrier versus other non-signatory carrier and signatory carriers versus other signatory carrier. However, because a signatory carrier is subject to the residual requirements of the airport-airline lease extension agreement, as well as the greater liability and exposure resulting of the lease extension, they have a higher priority than a non-signatory carrier. If a non-signatory carrier request access to

completely occupied facilities, only the first two options are available. However, a signatory carrier also has the third option which may, after all other alternatives are explored, displace a portion of the non-signatory carriers space. Currently, there are no carriers requesting space at this time.

The Airports Division has no policy that requires inclusion of a mandatory ground-handling clause in the subleases.

11. How Airports Division determines excessive sublease rents and any guidance on this matter to the carriers.

Excessive sublease rents are determined as covered under the attached Sublease Evaluation Policy. Guidance on this matter are covered either under a clause in the long-term exclusive use leases or Departmental procedures.

12. How would excessive sublease rents be "taken" and would they be returned to the sublessee?

The Airports Division may remedy excessive sublease rents by:

- a. Denying the sublease until no excess profit was reached.
- b. Require a change to the sublease rent.

With this policy, because no excessive sublease rents would be charged, no excessive rents needs to be "taken" and returned.

13. Will Airports Division continue to provide site preparation of unimproved lots for new or pre-existing ground handling companies?

It is the Airports Division policy to provide site preparation (grading, access, and utilities stub-outs) of unimproved lots for tenants. However, as stated in the Competition Plan, all improved lots are currently under lease. Also, the insufficient demand at this time cannot support the costs necessary to implement site preparation of unimproved lots. However, when demand requirements are such to support the feasibility for improved lots in the future, the Airports Division will implement a site preparation project.

14. Policy on adjustment of lease rates to reflect additional site preparation costs.

If tenants have to provide their own site preparation that is extraordinary and substantial, the Airports Division policy allows a lease credit in the form of up to one year's lease rent being waived in the first year of the lease.

15. How gates are assigned and the degree of preference assigned to signatory carriers over non-signatory carriers in terms or priority assignment and lower fees?

As stated earlier, while signatory carriers are equal to other signatory carriers, they have higher priority over non-signatory carriers. If a signatory carrier wishes to use a gate currently occupied by a non-signatory carrier, the non-signatory carrier will be repositioned to another gate or if all gates are occupied, to a hardstand. However, a significant exception to this policy exists in regards to "dead" gates. If all gates are occupied and an aircraft, whether a signatory or non-signatory carrier, requires unloading of passengers, an aircraft at a gate not actively being used will be repositioned to allow for unloading of the passengers. This policy is in place to avoid having arriving passengers "stranded" in their aircraft.

As shown on the Non-Signatory Carrier Rates and Charges Schedule and the July 12, 2000 letter on the adjusted rates and charges to signatory carriers, the non-signatory carriers pays Overseas and Interisland Airports System Support Charges (ASSC recovers the residual cost for the airport system) while the signatory carriers does not. The signatory carriers pay a Neighbor Island Terminal Joint Use Premises Charge while the non-signatory carriers does not.

16. Minimum requirements to obtain signatory status.

A disclosure form that lists company information, management personnel, current certification, ownership information, financial information, aircraft to be used, and facility requirements needs to be completed. Three years of either audited financial statements or federal tax returns are needed. Passenger liability insurance as required under Title 14, Part 205, Code of Federal Regulation is needed. Automobile and Comprehensive General Liability Insurance of \$5,000,000 each are also needed. No outstanding or past due

rents, taxes, fees or other obligations owed to the State of Hawaii and its county government can be active. Also, no default and termination of a contract or other agreement with the State in the past five years is required.

17. Domestic airlines operation on a non-signatory status and whether they requested signatory status.

Currently, Ryan International Airlines is the only major/national airline operating on a non-signatory status. In addition, five commuter airlines are non-signatory - Big Island Air, Call Air, Circle Rainbow Air, Commercial Flyer and Pacific Wings. Currently, no non-signatory airlines are requesting signatory status. However, approximately two years ago, Ryan International Airlines requested signatory status. However, when informed of the requirements for three years of either audited financial statements or federal tax returns, they withdrew their request.

18. How Airports Division informs air carriers of gate availability and terms and conditions.

As the Airports Division owns the terminal gates and holdrooms in fee, gate availability is based on the air carrier traffic. Terms and conditions, as discussed above, are based on the Airport-Airline Lease Extension Agreement and the Administrative Rules. However, the Airports Division encourages carriers to work with the Maui District Office in scheduling new flights. This allows coordination on gate usage that will avoid, if possible, the peak period congestion.

19. Areas and provision of the Airport-Airline Lease Extension Agreement that controls source of revenue for airports improvements.

The attached Airport-Airline Lease Extension Agreement Exhibit 1, Section B - The Capital Improvement Program and Section C - Financing the Capital Improvement Program controls the source or revenue for airport improvements.

20. Exclusive use terminal charges and the facilities that it applies.

Exclusive use terminal charges are those under long-term exclusive use leases or month-to-month revocable permits. Facilities that it applies to are listed under Item 2 above.

21. Terms and conditions that apply to exclusive use space.

The terms and conditions are given under the long-term exclusive use lease or month-to-month revocable permit. These terms have been discussed in the above items.

22. Difference between fees paid by signatory airlines versus non-signatory airlines.

See attached Non-Signatory Carrier Rates and Charges Schedule and the July 12, 2000, letter on adjusted rates and charges for signatory carriers.

23. Number of new ticket counters and amount of new carrier service that Terminal Development Phase I will provide.

This project will construct 30 ticket counter positions and associated airline ticket office space. However, eight temporary ticket counter positions are being replaced under this project for a total of 22 new ticket counter positions. This is an increase of approximately 40% from the existing 56 ticket counter positions, for a total of 78 ticket counter positions.

24. Does Airports Division intend to build or acquire gates that would be used a common facilities?

As stated in the Competition Plan, all gates at Kahului Airport are owned and controlled by Airports Division. Any new terminal facility built at Kahului Airport will be common facilities owned and controlled by Airports Division. However, currently there are no plans for constructing or acquiring additional gates at Kahului Airport.

25. Are interisland aircrafts currently operating from overseas gates.

Currently, interisland aircrafts are not operating from overseas gates. However, Aloha Airlines overseas flight between Kahului and Oakland using an interisland sized aircraft (Boeing 737-700) is operating out of an overseas gate (Gate 5).

Your comment on adopting dispute resolution procedures is useful and will be evaluated as an item in the next Airport-Airline Lease Agreement. Also, your analysis that the "concurrence methodology" appears to be a form of a majority-in-interest

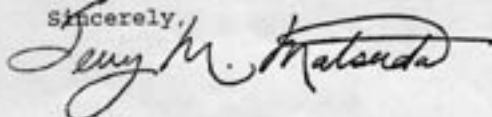
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agreement is helpful as we initiate discussion with the signatory airlines on the capital program. As we discuss a possible new Airport-Airline Lease Agreement, these comments will be considered.

If you have any further comments or questions, please contact Mr. Darell Young, Planning Engineer, at (808) 838-8818.

Sincerely,



JERRY M. MATSUDA, P.E.
Airports Administrator

Attachments: Airport-Airline Lease Extension Agreement
HAR Chapter 19-16.1 dated July 22, 1994
Amendments to HAR Chapter 19-16.1 dated
January 13, 1998
Amendments to HAR Chapter 19-16-1 dated
July 28, 1998
Department of Transportation Sublease Evaluation
Policy
Non-Signatory Carrier Rates and Charges Schedule
July 12, 2000 Letter on Adjusted Rates and Charges
to Signatory Carriers

bc: AIR-A
AIR-E
AIR-M
DEP-G
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LEASE EXTENSION AGREEMENT

THIS LEASE EXTENSION AGREEMENT (the Extension), entered into this 28th day of OCTOBER, 1996, but effective as of July 1, 1996, by and between the DEPARTMENT OF TRANSPORTATION, STATE OF HAWAII, hereinafter called the "LESSOR" and HAWAIIAN AIRLINES, INC. hereinafter called "LESSEE".

WITNESSETH THAT:

WHEREAS, the LESSOR and LESSEE entered into that certain indenture of lease designated as Lease No. DOT-A-78-24 and dated August 21, 1978, which Lease, as amended and extended from time to time, is hereinafter referred to as the "Airport-Airline Lease"; and

WHEREAS, the LESSOR and LESSEE wish to extend the term of the Airport-Airline Lease and to amend certain provisions thereof, including the rates and charges payable by LESSEE under the Airport-Airline Lease.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, and other valuable consideration, LESSOR and LESSEE hereby agree as follows:

1. The term of the Airport-Airline Lease shall be extended through June 30, 1997.
2. Effective as of July 1, 1996, the terms and conditions of the Airport-Airline Lease, including, but not limited to, the calculation of the rates and charges to be paid by LESSEE, shall be amended as set forth in Exhibit 1 attached hereto and incorporated herein.
3. Effective as of July 1, 1996, the billing and payment procedures shall be as set forth in Exhibit 2 attached hereto and incorporated herein.
4. The rates and charges in effect as of July 1, 1996 payable under the Extension are set forth in Exhibit 3, attached hereto and incorporated herein, subject to adjustment pursuant to Exhibit 1 Section F(8).
5. The Extension is not to be construed as precedent for any future rate making methodology or structure, nor is the Extension intended to limit the rights of the LESSOR or LESSEE in any way, including, without limitation, the rights of the LESSOR and the LESSEE to payments and/or credits pursuant to the terms of the Airport-Airline Lease.

6. The Extension will be automatically extended on a quarterly basis unless either party provides sixty (60) days written notice to the other party of termination.

7. Except as set forth herein, the terms and conditions of the Airport-Airline Lease as heretofore amended shall remain in full force and effect. In case of any conflict between the terms and conditions of the Airport-Airline Lease and the terms of the Extension, the terms of the Extension shall control.

8. The Extension may be executed in several counterparts, all or any of which shall be regarded as the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused the Extension to be executed on the day and year first above written.

DEPARTMENT OF TRANSPORTATION,
STATE OF HAWAII

APPROVED AS TO FORM

Wayne Am...
Deputy Attorney General, State of Hawaii

W. Kenneth Owens
Director of Transportation

HAWAIIAN AIRLINES, INC.

Ch. Lyman
Title: Vice President - Finance
By Rae A. Carr
Its V.P. General Counsel

STATE OF HAWAII

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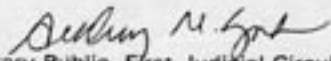
) SS.

CITY AND COUNTY OF HONOLULU

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On this 21st day of June, 1996 before me personally appeared **CLARENCE K. LYMAN** and **RAE A. CAPPS**, to me personally known, who, being by me duly sworn, did say that they are the **Vice President-Finance, Treasurer and Assistant Corporate Secretary** and **Vice President, General Counsel and Corporate Secretary**, respectively, of **HAWAIIAN AIRLINES, INC.**, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.

L.S.


Notary Public, First Judicial Circuit,
State of Hawaii

My Commission Expires: 7-15-97

RESOLUTION OF THE BOARD OF DIRECTORS
OF
HAWAIIAN AIRLINES, INC.

ADOPTED: FEBRUARY 2, 1996

AUTHORIZING THE SIGNATURE ON INSTRUMENTS

RESOLVED, by the Board of Directors of Hawaiian Airlines, Inc., hereinafter called the "Company", that the signature on all contracts or other instruments obligating the Company for amounts in excess of \$500,000, and all instruments not otherwise provided for by this resolution or other resolutions of the Board of Directors, shall be signed by the Chairman of the Board or President and the Treasurer or Corporate Secretary;

FURTHER RESOLVED, that all contracts or other instruments obligating the Company for amounts of \$100,000 to \$500,000 may be signed by the Chairman of the Board or President or any two of the following officers of the Company:

Any Vice President
The Treasurer
The Corporate Secretary

FURTHER RESOLVED, that all contracts or other instruments obligating the Company for amounts of \$50,000 to \$100,000 may be signed by any two of the following officers of the Company:

The Chairman of the Board
The President
Any Vice President
The Treasurer
The Corporate Secretary

FURTHER RESOLVED, that all contracts or other instruments obligating the Company for amounts of \$50,000 or less may be signed by any one of the following officers of the Company:

The Chairman of the Board
The President
Any Vice President
The Treasurer
The Corporate Secretary

FURTHER RESOLVED, that contracts or other instruments involving less than \$50,000 each may also be signed by any individual of the Company authorized in writing by any one of the following officers of the Company:

The Chairman of the Board
The President
Any Vice President
The Treasurer
The Corporate Secretary

Exhibit 1 to the Extension

A. DEFINITIONS

1. "Airfield Activity Center" shall mean the airfield areas of all airports in the Airport System, including, but not limited to, the runways, taxiways, aprons, aircraft parking areas, security fencing, secure service roadways, aircraft rescue and crash fire stations, and related areas and facilities.
2. "Airport" shall mean the Airport to which this Exhibit applies.
3. "Airports System" shall mean the State-wide system of airports including all airports, air navigation facilities, and other related facilities and properties (real, personal, or mixed), and any rights or interests in airports, air navigation facilities, and other related facilities and related properties, now or hereafter belonging to or controlled by the State or under the administration, jurisdiction, control, and management of the State, and all equipment, improvements, extensions, or betterment thereto hereafter constructed or acquired.
4. "Airports System Costs" for any State Fiscal Year shall mean all reasonable expenses incurred by Lessor in the administration, operation and maintenance of the Airports System. Airports System Costs shall include maintenance and operating expenses (including payments to the Office of Hawaiian Affairs, the State surcharge, and the Department of Transportation administrative allocation), debt service and coverage on airports system revenue bonds, debt service on reimbursable general obligation bonds, debt service and coverage on any subordinate bonds including requirements under SWAPS, letters of credit and other credit enhancing instruments, annual requirements for purchases of equipments, annual requirements for purchases of equipment and motor vehicles, and replenishment of increase of the Airports System Major Maintenance, Renewal and Replacement Account and the operation and maintenance reserve account pursuant to Section E(1)(c).
5. "Airports System Revenues" for any State Fiscal Year for the purpose of the computation of the ASSC means all rents, fees, operating interest income, and all other income received during such State Fiscal Year by the Lessor from the operation of the Airports System

Revenue Fund pursuant to Section 261-5, Hawaii Revised Statutes, as amended, excluding, however, (i) ASSC or ASSC adjustments pursuant to Section F(8) during such State Fiscal Year; (ii) grants-in-aid or similar payments received from public agencies provided that (a) the uses of such moneys are restricted to specified purposes, or (b) such grants or payments constitute a reimbursement to Lessor for expenditures or transfers previously made from the Airport Revenue Fund; (iii) any funds paid or payable to the Lessor under a net rental lease; (iv) (a) interest derived from moneys received under item (ii) and (iii) above; (b) interest received from funds earmarked for the capital improvement program; (c) interest received on unspent bond moneys, and (d) interest received on funds earmarked for transfer for purposes of debt reduction pursuant to Section G; (v) aviation fuel taxes, and (vi) duty free revenues pursuant to Section D(1). All such excluded funds will be applied for any lawful Airports System purposes. Revenues received from passenger facility charges, if and when assessed, will not be included in the calculation of ASSCs, but will remain in the Airport Revenue Fund and used for the capital improvement program or to redeem outstanding airport revenue bonds.

6. "ASSC" shall mean the Airports System Support Charge imposed by the Lessor per one thousand (1,000) pounds of Approved Maximum Landed Weight to recover residual costs of the Airports System.
7. "Approved Maximum Landed Weight" shall mean the maximum weight in thousand-pound units at which each aircraft operated by a Signatory Airline is authorized by the Federal Aviation Administration for landing as recited in the flight manual governing that aircraft. If an aircraft is registered in a foreign country and has not been certified by the Federal Aviation Administration the approved maximum landed weight shall be the maximum landed weight authorized by the foreign country.
8. "Deplaning International Passenger" shall mean any passenger, excluding any member of a flight crew, who deplaned from an international flight and used the international arrivals area of the Airport.
9. "Landing" shall mean any landing at any airport in the Airports System with revenue passengers and/or cargo for hire, but shall not include landings resulting from weather, mechanical, operations, emergency or precautionary conditions.

10. "Revenue Passenger Landing" shall mean any Landing at any airport in the Airports System with revenue passengers, but shall not include Landings resulting from weather, mechanical, operations, emergency or precautionary conditions.
11. "Signatory Airlines" shall mean Lessee or any airline engaged in the transportation of persons, property, cargo, and/or mail by air, at, to and/or from or through the Airports System having a lease substantially similar to the Airport-Airline Lease and the Extension.
12. "Total Landed Weight" shall mean, for any State Fiscal Year, the sum of the following weights, expressed in one thousand (1,000) pound units:
 - (a) The sum obtained by adding the Approved Maximum Landed Weight for each aircraft for each overseas Landing at an airport in the Airports System; and
 - (b) That percentage, pursuant to Section F(5) of the sum obtained by adding the Approved Maximum Landed Weight for each aircraft for each interisland Landing such aircraft makes at an airport in the Airports System.

B. THE CAPITAL IMPROVEMENT PROGRAM

1. The project elements and estimated cost of the agreed upon capital improvement program for State Fiscal Years 1995 through 1997 is set forth in Attachment A.
2. The Lessor does not forecast any additions to the State Fiscal Year 1995 through 1997 capital improvement program during the term of the Extension. Should the Lessor need to expend any funds for construction during the Extension on any additional capital improvement not listed in Attachment A, or if the project budget for any capital improvement listed on Attachment A increases by more than ten percent (10%) prior to the award of a construction contract, such capital improvement (Additional Capital Improvement) funding will be subject to the Signatory Airline review process pursuant to Section B(5) below.

If, after a contract for construction has been executed for any capital improvement listed in Attachment A, the Lessor, as part of its ongoing project management reporting process, forecasts expenditures necessary to

complete any such capital project in excess of 110% of the amount shown on Attachment A, the Lessor will:

- a. Notify the Signatory Airlines within thirty (30) days of such determination;
- b. Use its best efforts to mitigate such overruns including design modifications and/or project scope reductions; and
- c. If necessary, reallocate the estimated costs shown on Attachment A (including contingency, planning, and design allowance) such that the overall estimated cost of \$316.1 million for the State Fiscal Year 1995-1997 capital improvement program is not exceeded.

If the Lessor forecasts that the estimated cost of \$316.1 million will be insufficient to complete the projects shown in Attachment A, the Lessor will eliminate projects not yet under contract for construction from Attachment A, as necessary, to maintain the total estimated cost of \$316.1 million. Such eliminated projects may be treated as Additional Capital Improvements subject to the review process pursuant to Section B(5).

3. The estimated expenditures for the capital improvement program set forth in Attachment A -- measured in terms of total amount expended for design, construction, and program management contracts, but excluding financing costs -- is approximately \$316.1 million.
4. The Lessor shall provide quarterly reports to the Signatory Airlines regarding the status of design and construction, the schedule and the actual or estimated cost for the capital improvement program. At the request of the Signatory Airlines, the Lessor will meet with the Signatory Airlines to discuss any element of the capital improvement program.
5. The Lessor shall institute the following process for Signatory Airline review of Additional Capital Improvements.
 - a. If the Lessor decides to undertake an Additional Capital Improvement (excluding all expenditures either from the Major Maintenance, Renewal and Replacement Account or for equipment and motor vehicles), the capital and/or operations and maintenance costs of which are to be funded by the inclusion of the purchase price, the construction cost, coverage on bonds, lease payments, or

operations and maintenance expenses in the rents or fees of the Signatory Airlines during any subsequent State Fiscal Year or Years during the term of the Extension, the Lessor shall submit a report containing such Additional Capital Improvement(s) to each of the Signatory Airlines. A report may be submitted by the Lessor at least ninety (90) days before the expiration of the then-current State Fiscal Year, but not more than quarterly, and shall include the following:

- (1) A description of the Additional Capital Improvement together with cost estimates and any available preliminary drawings.
- (2) A statement of the need for the Additional Capital Improvement.
- (3) An estimate of the operation and maintenance expenses associated with the completed Additional Capital Improvement.
- (4) The allocation of the cost thereof to the Airfield Activity Center.
- (5) The Lessor's financing plan for the Additional Capital Improvement.

b. Within a reasonable time, but no sooner than thirty (30) days and no later than sixty (60) days after distribution of a report, the Signatory Airlines shall meet with the Lessor to discuss any Additional Capital Improvement and its financing plan. The Lessor will provide the Signatory Airlines reasonable notice of the date, time, and place of the meeting. The Additional Capital Improvement and its financing plan shall be deemed accepted unless within sixty (60) days after distribution of the report, concurrence is specifically withheld in writing by at least fifty percent (50%) of the Signatory Airlines representing at least fifty percent (50%) of the total landing fees and ASSCs actually paid in the previous State Fiscal Year.

c. If the Additional Capital Improvement is not accepted within sixty (60) days after distribution of a report, the Lessor shall have the option to convene a second meeting of the Signatory Airlines within one hundred and twenty (120) days after distribution of a report. At the second meeting, the Lessor shall respond to questions raised during the first meeting and shall ask for

reconsideration of the Additional Capital Improvement and its financing plan. Upon reconsideration, the Additional Capital Improvement shall be deemed accepted unless within thirty (30) days after such meeting, concurrence is specifically withheld in writing by at least fifty percent (50%) of the Signatory Airlines representing at least fifty per cent (50%) of the total landing fees and ASSCs actually paid in the previous State Fiscal Year. Any Additional Capital Improvement and related financing plan not accepted by the Signatory Airlines under this Section B(5) shall be deferred until the State Fiscal Year following the State Fiscal Year for which the Additional Capital Improvement was proposed, and thereafter shall require no further review by the Signatory Airlines.

- d. Even if concurrence is withheld on any Additional Capital Improvement, the Lessor may include the cost of such Additional Capital Improvement in the succeeding State Fiscal Year calculation for the landing fees and ASSC of the Signatory Airlines, if the Lessor determines that such Additional Capital Improvement is necessary or prudent to:
 - (1) Ensure compliance with a rule, regulation, or order of any federal, State, or other governmental agency (excluding Lessor) that has jurisdiction over the operation of the Airports System.
 - (2) Permit the continued operation and maintenance of the Airports System.
 - (3) Satisfy judgments against Lessor in its capacity as an airport sponsor rendered by a court of competent jurisdiction.
 - (4) Repair casualty damage to Airports System property or facilities. Upon making any such determination, Lessor shall notify the Signatory Airlines in writing.
- e. The capital improvement program, including contingencies and planning and design allowances, set forth in Attachment A, is exempt from the review procedures pursuant to this Section B(5), subject to the requirements of Section B(2).

C. FINANCING THE CAPITAL IMPROVEMENT PROGRAM

1. Sources of Funding - Capital Improvement Program.

The Lessor expects to finance the capital improvement program set forth in Attachment A from the following sources:

- a. Airports System funds existing as of the commencement of the term of the Extension;
- b. Cash flow generated from Airports System financial operations during the term of the Extension;
- c. Grants-in-aid under the FAA's Airports Improvement Program (AIP) or any successor airport grant program. The Lessor will use its best efforts to obtain the maximum amount of discretionary AIP grants-in-aid and any other grants which may be available for the capital improvement program;
- d. Investment income on available capital funds.

2. Airports System Revenue Bonds

- a. The Lessor does not intend to issue any additional general purpose Airports System revenue bonds during the term of the Extension other than refunding bonds (if appropriate).
- b. In the event the Lessor issues any additional general purpose Airports System revenue bonds, the Lessor will notify the Signatory Airlines in advance of the schedule of such issuance and provide information regarding the issuance to the Signatory Airlines, including but not limited to a preliminary official statement.

D. DUTY FREE REVENUES

Each State Fiscal Year, duty free revenues shall be applied as follows:

1. For the term of the Extension, duty free revenues actually received by the Lessor in a State Fiscal Year in excess of \$100 million shall be applied to fund the capital improvement program.
2. For the term of the Extension, duty free revenues actually received by the Lessor in a State Fiscal Year up to \$100 million shall be applied to reduce the ASSC.
3. In the event that duty free revenues in any State Fiscal Year during the term of the Extension are

payable but not received due to the failure by the concessionaire to make such payment, including duty free revenues payable during the term of the Extension and received after the termination of the Extension, such duty free revenues shall be applied in any State Fiscal Year when actually received for the purposes and in the amounts provided in Section D(1) and D(2) as a credit towards the ASSC or other rates and charges if the ASSC is no longer in effect; such ASSC or rates and charges shall be payable by those signatory airlines who are signatory airlines at the time of receipt of such deferred duty free revenue. Lessor will take no action to defer any receipts due in any State Fiscal Year under the terms of the duty free contract for the purpose of decreasing Airports System Revenue for such State Fiscal Year. In the event that Lessor, in its sole discretion, determines that it is in the best interest of Lessor and Lessee to defer any receipts due in any State Fiscal Year under the terms of the duty free contract, Lessor will consult with the Signatory Airlines regarding such deferral. This Section D(3) shall survive the termination of the Extension.

E. APPLICATION OF EXISTING CASH BALANCES

1. Reserves

As of July 1, 1994, and at the beginning of each State Fiscal Year thereafter, the Lessor will reserve a sufficient amount of Airports System cash and investments (on hand as of the immediately preceding June 30) to provide for the following obligations:

- a. Operating fund encumbrances as of June 30;
- b. Capital improvement program commitments;
- c. The first three months of the budgeted operating expenses for the current State Fiscal Year;
- d. The first three months, or for any such period as required by State law, of the budgeted debt service on all outstanding bonds for the current State Fiscal Year, and
- e. Major Maintenance, Renewal, and Replacement Account of \$15 million.

F. RATES AND CHARGES

1. Terminal Rents - Exclusive Use Premises. The terminal rental rates per square foot per year for exclusive use

premises (ticket counters, offices, baggage make-up areas, operations space, VIP lounges, etc.) will be fixed for the term of the Extension as set forth in Exhibit 3. The air conditioning charge will not be fixed for the term of the Extension and may be revised using a cost recovery calculation by the Director from time to time.

2. Joint Use Premises Charges. The joint use premises charge shall be determined based on the terminal rental rates set forth in Exhibit 3, and recovered based on Revenue Passenger Landings as follows:
 - (a) The joint use premises charge for the overseas terminal at the Airport shall apply to holdroom, baggage claim, baggage tug drive, and joint use baggage makeup areas and shall be calculated as the quotient derived by dividing the product obtained by multiplying the applicable terminal rental rate for each type of joint use area in the overseas terminal and the total number of square feet of respective joint use area in the overseas terminal by the estimated Revenue Passenger Landings applicable to the overseas terminal.
 - (b) The joint use premises charge for the interisland terminal at the Airport shall apply to holdroom, baggage claim, baggage tug drive, and joint use baggage makeup areas and shall be calculated as the quotient derived by dividing the product obtained by multiplying the applicable terminal rental rate for each type of joint use area in the interisland terminal and the total number of square feet of respective joint use area in the interisland terminal by the estimated Revenue Passenger Landings applicable to the interisland terminal.
 - (c) Beginning in State Fiscal Year 1997, a joint use premises charge shall also apply to the baggage claim, baggage tug drive, and joint use baggage makeup areas at Kahului Airport, Keahole-Kona International Airport, Lihue Airport, and Milo Airport, and shall be calculated as the quotient (rounded to the nearest cent) derived by dividing the product obtained by multiplying the applicable terminal rental rates for each type of joint use area in the airports listed in this paragraph and the total number of square feet of respective joint use area in such airports by the estimated Revenue Passenger Landings applicable to such airports. Although not covered by the terms of the Extension, it is the Lessor's intent to apply

a joint use premises charge to all joint use premises at all the Neighbor Island airports in State Fiscal Year 1998.

3. Landing Fees. The landing fee rate shall be calculated for all of the airports in the Airports System to recover the percentage of Airports System Costs (as defined in Section A(4) above) allocable to the Airfield Activity Centers of the Airports System and shall be calculated as the quotient derived by dividing the total of such allocated costs by the Total Landed Weight. Lessee making an overseas Landing at an airport in the Airports System shall pay one hundred percent (100%) of the landing fee rate per thousand (1,000) pound unit of Approved Maximum Landed Weight. Lessee making an interisland Landing at an airport in the Airports System shall pay thirty two percent (32%) in State Fiscal Year 1995, thirty four percent (34%) in State Fiscal Year 1996, and thirty six (36%) percent in State Fiscal Year 1997, of the landing fee rate per thousand (1,000) pound unit of Approved Maximum Landed Weight. The percentages of total Airports System Costs for each airport to be allocated to the Airfield Activity Center are set forth in Attachment B.
4. Airports System Support Charges. The ASSC shall be calculated to recover all the remaining residual Airports System Costs (as defined in Section A(4) above) in excess of Airports System Revenue (as defined in Section A(5) above), after allowing credit for the debt reduction program set forth in Section G, and shall be calculated as the quotient derived by dividing such residual costs by Total Landed Weight. Lessee making an overseas Landing at an airport in the Airports System shall pay one hundred percent (100%) of the ASSC per thousand (1,000) pound unit of Approved Maximum Landed Weight. Lessee making an interisland Landing at an airport in the Airports System shall pay thirty two percent (32%) in State Fiscal Year 1995, thirty four percent (34%) in State Fiscal Year 1996, and thirty six (36%) percent in State Fiscal Year 1997, of the ASSC per thousand (1,000) pound unit of Approved Maximum Landed Weight.
5. Interisland Rates. Landing fee rate and ASSC to be charged to all Signatory Airlines for interisland flights shall be determined as a percentage of the landing fee rate and ASSC, as follows:

FY 1995	32%
FY 1996	34%
FY 1997	36%

Attachment A to Exhibit 1 of the Extension

**The Capital Improvement Program
State Fiscal Year 1995 - 1997**

<u>Airport</u>	<u>Project number</u>	<u>Project title</u>	<u>Cost (\$M)</u>
STWD	VARIOUS	ONGOING PROJECTS AS OF 6/30/94	\$93.4
KEAHOLE	AH2043-12	ROAD N, NORTH UTILITIES	1.5
LIHUE	AK1041-14	IMPROV AIRPORT SIGNS	0.9
LIHUE	AK1047-11	NEW ARFF	4.3
STWD	AS1031-13	AIRFIELD SIGNS ITO, MKK, LNY	1.8
UPOLU	AH4021-12	REHAB AIRFIELD LITE CABLES	0.6
KAHULUI	AM1055-02	RELOCATION OF VORTAC	0.9
HIA	AO1095-16/20	SECURITY SYSTEM PH III/IIB	1.0
BARFT	AO5011-01	BARFT MP AND NOISE STUDY	0.5
STWD	AS1011-09	SASP UPDATE	0.2
HIA	AS1031-12	INSTALL T/W AND R/W SIGNS PH II	2.0
STWD	AS1080-10	ARCH BARRIER REMOVAL	5.0
HIA	AO1037-25	IAB MODIFICATIONS	21.5
HIA	AO1182-XX	RW SL IMPROVEMENTS	18.0
KAHULUI	AM1022-11	STRENGTHENING R/W 2 - 20 & T/W	8.0
KAHULUI	AM1022-12	EXTENSION TO R/W 2 - 20	32.4
KEAHOLE	AH2042-23/24	TERMINAL IMPROV PH I & II	22.4
LIHUE	AK1046-22	APRON & T-HANGAR	4.9
HIA	AO1123-19	MAKAI PIER PH II	21.7
HIA	AO1123-20	IIT TENANT IMPROV	2.0
HIA	AS1040-20	LOADING BRIDGES (IIT)	1.6
HIA	AO1033-17	UFAS	2.1
HIA	AO1098-11	EMERGENCY POWER SYS	7.4
HIA	AO1098-16	ELECT DISTR SYS PH IV	10.2
HIA	AO1096-12	FIRE ALARM PH II	1.4
HIA	AO1093-13	ENERGY MONITORING CONT SYS III	1.5
HIA	AO1141-03	NON-POTABLE WATER II	1.3
HIA	AO1091-12	TELECOMMUNICATION SYS II	0.2
HIA	AO1144-13	IMPROVEMENTS TO ARFF STATION 2	3.0
KAHULUI	AM1033-15	ARFF TRAINING FAC	2.9
KAHULUI	AM1045-15	FUEL STORAGE SITE DEV	0.6
KAHULUI	AM1033-12	EAST RAMP SEWER SYS	2.3
HIA	AO1097-14	FIDS PH III	1.2
HIA	AO1039-XX	ITS SITE PREP - VEH PARKING	2.0
HIA	AO1095-19	SECURITY SYS VIDEO MONITORS	0.4
HIA	AOXXXX-XX	INTERIM INTRA TERMINAL TRANSP	5.0
		CONTINGENCY, PLANNING/DESIGN ALLOW	10.0
			5316.1

6. International Arrivals Building Charge. International arrivals building charge (IAB Charge) shall be calculated as the product obtained by multiplying the applicable terminal rental rate for the international arrivals area of the Airport by the total number of applicable square feet of usable space in that area divided by the number of Deplaning International Passengers.
7. Aviation Fuel Tax Credit. Upon submission by Lessee of a claim in writing within six (6) months after the date of payment of any aviation fuel taxes, there shall be credited against the amount of landing fees owed pursuant to Section F(3) by Lessee for a particular month, the amount of aviation fuel taxes collected from Lessee during the same month; provided that, if aviation fuel is purchased by Lessee from a retail dealer there shall be credited against amounts of landing fees owed pursuant to Section F(3) by Lessee for a particular month an amount equal to the number of gallons purchased from the retail dealer times the applicable aviation fuel tax per gallon as prescribed in Chapter 243, Hawaii Revised Statutes.
8. Review and Adjustment. Review and adjustments to the rates and charges set forth in this Section F, excluding terminal rental rates set forth in Exhibit 3, may occur at any time as the Lessor may reasonably determine in light of either actual past experience or forecast events which would have an effect on the adequacy of the then established rates and charges. The Lessor shall prepare a final year-end reconciliation, in accordance with generally accepted accounting principles, for each State Fiscal Year covering the operation of the Airports System. Such reconciliation shall contain a calculation based on actual data, in accordance with the provisions contained herein, the rates and charges described in this Section F (collectively, Rates and Charges) chargeable to each Signatory Airline for the preceding State Fiscal Year. If Rates and Charges actually paid by Signatory Airlines were greater than the amounts chargeable to Signatory Airlines, the Signatory Airlines shall receive credits in the amounts of such overpayment against the current State Fiscal Year's total ASSC requirement. If Rates and Charges paid by Lessee were less than the amounts chargeable to Lessee, the Lessee shall pay to the Lessor the amount of any such deficiency along with its next payment of landing fees and ASSC. The provisions of this Section F(8) shall survive the termination of the Extension. In the event a credit is due to Signatory Airlines after the termination of the Extension and the ASSC is no longer

in effect, such credits shall be applied to other rates and charges payable by the Signatory Airlines.

9. The rates set forth in Section F(3) and F(4) supersede and replace in their entirety the Airport Use Charge payable under the Airport-Airline Lease.
10. In the event that amounts payable by Lessee under the Airport-Airline Lease and the Extension are not received by the Lessor within sixty (60) days after the date of any invoice, the Lessor may determine that the Lessee is in default of the Airport-Airline Lease and the Extension and, if such default is not cured within 30 days after Lessee's receipt of written notice of default from Lessor, may exercise its rights under the Airport-Airline Lease.

G. DEBT REDUCTION PROGRAM

The Lessor will apply available monies to the reduction of debt service in the amount of \$34.0 million in State Fiscal Year 1995, \$27.0 million in State Fiscal Year 1996, and \$21.0 million in State Fiscal Year 1997.

The effect of the application of such monies will be to reduce the debt service requirement and the corresponding coverage in calculating the Revenues as defined in and required under the Certificate of the Director providing for the issuance of State of Hawaii Airports System revenue bonds dated as of May 1, 1969.

H. REVIEW MEETINGS

The Lessor will conduct at least four (4) quarterly meetings each State Fiscal Year with the Signatory Airlines. The schedule and presentation format for the actual and forecast financial results for the Airports System and review of the capital improvement program will be established by mutual agreement between the Airports System administrator and the chairman of the Airlines Committee of Hawaii.

I. REPORTING REQUIREMENTS

Lessee shall submit an airline activity report monthly to the Lessor stating the following aviation activity statistics for each airport in the Airports System within fifteen (15) days following the end of each month in which the aviation activity occurs:

1. Number of Landings;

2. Number of Revenue Passenger Landings;
3. Number of cargo Landings;
4. Approved Maximum Landed Weight of the aircraft involved in each Landing;
5. Enplaned and deplaned domestic passengers;
6. Enplaned and Deplaned International Passengers;
7. Any other information necessary for the calculation of Rates and Charges; and
8. All other reasonable information requested by the director.

In the event Lessee does not submit such activity report as required in this Section, Lessor may estimate Lessee's activities for the purposes anticipated by the Extension.

J. FINANCIAL PROJECTION

A summary of projected financial results for the Airports System based on the terms of the Extension is set forth in Attachment C.

The Lessor and the Lessee agree that the total airline requirement for each State Fiscal Year are forecast to be as shown on Attachment C. It is the Lessor's intent that these total airline requirements will not be exceeded without prior consultation with the Signatory Airlines pursuant to Section H herein. In the event that the airline requirement in any State Fiscal Year is forecast to be materially different from the levels shown on Attachment C, the Lessor will review both current and proposed capital budgets and operating and maintenance expense budgets with the Signatory Airlines to determine what steps might be taken to reduce the airline requirement for any given State Fiscal Year to the levels shown on Attachment C. Such steps specifically exclude any additional contributions by the Lessor pursuant to Section G herein.

While the Lessor believes the assumptions utilized in the preparation of Attachment C are reasonable, it cannot and does not represent that all assumptions will materialize. In the event any of the assumptions utilized in preparing Attachment C should be different than those reflected in Attachment C, the amount of the airline requirement will vary from that reflected. Any such difference will affect that portion of the amount of the airline requirement to be derived from the residual segment of rates and charges (the

ASSC). For example, a decrease in operating expense or an increase in concession fees, duty free revenue, or operating interest income will have the effect of decreasing the airline requirement. Correspondingly, an increase in operating costs or a decrease in concession fees, duty free revenue, or operating interest income will have the effect of increasing the airline requirement.

K. Neighbor Island Lease Extensions.

Lessor and all Signatory Airlines with leases for space at neighbor island airports shall execute necessary documents to extend such leases through State Fiscal Year 1997 on the same terms and conditions as are currently in effect, including exclusive use rental rates, except that beginning in State Fiscal Year 1997, a joint use premises charge shall apply, pursuant to Section F(2)(c).

Attachment B to Exhibit 1 of the Extension

Operation and Maintenance Expenses
Allocation Percentages to the
Airports System Airfield Activity Centers

<u>Airport</u>	<u>Allocation percentage</u>
Honolulu International Airport	17.5%
Kahului Airport	35.0%
Keahole-Kona International Airport	45.0%
Lihue Airport	35.0%
Hilo International Airport	32.0%
Other Airports	25.0%

Attachment C to Exhibit 1 of the Extension

Summary of Projected Financial Results
State Fiscal Year 1995 - 1997
(in thousands)

	1995	1996	1997
Airports System Requirement			
Operating expenses	\$136,572	\$145,365	\$152,935
Bond Debt Service and Coverage			
General obligation bonds	3,423	3,294	609
Airports System Revenue Bonds	128,916	128,823	128,732
Less: Effect of debt reduction program	(34,000)	(27,000)	(21,000)
Coverage requirement	33,221	35,638	37,706
Equipment and motor vehicle purchases	-2,500	2,625	2,756
Major Maintenance, Renewal and Replacement Account	4,000	4,200	4,410
OHA payment	<u>8,175</u>	<u>8,310</u>	<u>8,692</u>
Total requirement	\$282,806	\$301,255	\$314,848
Credits			
Other operating revenue	\$72,513	\$77,479	\$82,730
Airline Terminal Rentals	31,448	31,448	32,433
Landing fee revenue - signatory	49,680	50,242	51,803
Landing fee revenue - nonsignatory	840	840	840
International Arrivals Building charges	8,821	8,821	8,821
Interest income - operating funds	11,607	11,734	11,843
Duty free revenue credit	<u>100,000</u>	<u>100,116</u>	<u>99,188</u>
Total credits	\$274,909	\$280,679	\$287,659
ASSC requirement	\$7,897	\$20,576	\$27,189
Total Airline Requirement	\$98,686	\$111,926	\$121,086

Exhibit 2 to the Extension

Billing and Collection Procedures

- A. Terminal Rentals. Terminal rentals will be self-invoiced by Lessee in advance. Payment is due the 15th of the month contemporaneously with activity based payments.
- B. Landing Fees, Joint Use Premises Charges, IAB Charges, and ASSC. Landing fees, joint use premises charges, IAB charges, and ASSC will be paid contemporaneously with airline activity reports required pursuant to Exhibit 1 Section I.

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Landing Fee Rate	
(per thousand pound unit of landed weight)	
Overseas carriers	\$2.589
Interisland carriers	\$0.829
International Arrivals Building Charge	
(per deplaning int'l passenger)	\$2.909
Joint Use Premises Charges	
(per revenue passenger landing)	
Honolulu Overseas Terminal	\$397.690
Honolulu Interisland Terminal	\$60.326
Airports System Support Charge Rate	
(per thousand pound unit of landed weight)	
Overseas carriers	\$0.412
Interisland carriers	\$0.132

* - Excludes charges not covered by the Extension but included in the Airport-Airline Lease (e.g. ground rents and air conditioning charges)

Exhibit 1 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Rental of Passenger Terminal Building

Honolulu International Airport

Overseas Terminal, Administration, Overseas Departure
Buildings, and Interisland Terminal Building 310

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office (finished)	\$40.00
Office (loft)	32.00
Ticket counter (finished)	60.00
VIP lounge (finished)	50.00
VIP lounge (loft)	40.00
Service counter-lost & found office (finished)	40.00
Service counter-lost & found office (loft)	32.00
Holding rooms - joint-use (finished)	50.00
Concessionaire - sales (loft)	100.00
Concessionaire - restaurant (loft)	100.00
Concessionaire - service (loft)	35.00
Concessionaire storage (loft)	12.00
Portions of terminal floor	32.00
Baggage make-up and breakdown	10.00
Baggage claim - joint-use (finished)	50.00
Baggage storage cage (finished)	20.00
Remnant storage	5.00
Passenger check-in (finished)	60.00
Ramp office (finished)	40.00
Ramp office (loft)	32.00

Exhibit 3 to the Extension

**Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994**

Diamond Head Extension

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Curbside check-in (finished)	\$60.00
Counter check-in (finished)	60.00
Baggage make-up and breakdown	10.00
- Service counter-lost & found office (finished)	40.00
Service counter-lost & found office (loft)	32.00

Interisland Terminal Building 314

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$32.00
Office - second floor (finished)	28.80
Ticket counter (finished)	48.00
Holding room (finished)	40.00
Concessionaire - sales (loft)	80.00
Concessionaire - restaurant (loft)	80.00
Terminal floor space	25.60
Baggage make-up and breakdown	8.00
Baggage claim (finished)	40.00
VIP lounge (finished)	40.00

Interisland Terminal Building 304

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$36.00
Office - second floor (finished)	32.40
Ticket counter (finished)	54.00
Holding room (finished)	45.00

Exhibit 2 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Concessionaire - sales (loft)	90.00
Concessionaire - restaurant (loft)	90.00
Terminal floor space	28.80
Baggage make-up and breakdown	9.00
Baggage claim (finished)	45.00
VIP lounge (finished)	45.00

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$7.38	\$6.68
Open equipment parking	5.71	5.01

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Preferred - paved	\$100.00
Covered	100.00
Uncovered - paved	65.00
Uncovered - unpaved	40.00

Kahului Airport

Terminal Building

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$27.00
Office - ground floor (loft)	22.00
Office - second floor (finished)	24.00
Office - second floor (loft)	19.00
Holding room (finished)	24.00
Ticket counter (finished)	30.00
Passenger check-in (finished)	30.00

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Ground transportation booth (finished)	30.00
Taxi dispatcher space	30.00
Concessionaire	24.00
Concessionaire - restaurant	24.00
Baggage make-up and breakdown	9.00
Baggage claim (finished)	9.00
Baggage storage - lost & found office	15.00
State's racks	9.00
Ramp office (finished)	15.00
Ramp office (loft)	7.50
Concessionaire storage (loft)	9.00
Terminal floor space	30.00
VIP lounge (finished)	24.00
VIP lounge (loft)	19.00
Concessionaire - service	24.00
Ramp equipment storage (finished)	9.00
Ramp equipment storage (loft)	6.00
Belt/cart corridor	4.80

Air Taxi Building

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office (finished)	\$24.00
Ticket counter (finished)	24.00
Baggage make-up and breakdown	9.00

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$3.60	\$3.00
Open equipment parking	2.15	1.80

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Automobile Parking Stalls

Monthly rate/stall

Covered	\$75.00
Uncovered	70.00

Milo International Airport

Terminal Building

Rate per sq ft
per annum

Type of space

Office - ground floor (finished)	\$16.20
Office - ground floor (loft)	11.20
Office - second floor (finished)	15.00
Office - second floor (loft)	10.00
Passenger check-in (finished)	24.00
Ticket counter (finished)	24.00
Holding room (finished)	16.20
Ground transportation booth (finished)	24.00
Concessionaire - sales (loft)	25.80
Concessionaire - restaurant (loft)	25.80
Terminal floor space	25.80
Baggage make-up and breakdown	6.00
Baggage claim (finished)	6.00
Ramp office	10.20
Group tour baggage area	6.00
Baggage storage cage	10.20
VIP lounge (finished)	16.20
VIP lounge (loft)	11.20
Storage - second floor	15.00
Remnant storage - ground floor	6.00

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Air Taxi Building

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office (finished)	\$12.00
Ticket counter (finished)	16.20
Baggage claim	6.00
Baggage make-up and breakdown	6.00

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$3.60	\$3.00
Open equipment parking	2.00	1.80

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Covered	\$75.00
Uncovered	70.00

Keahole-Kona International Airport

Terminal Building

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office - ground floor (finished)	\$27.00
Office - ground floor (loft)	22.00
Passenger check-in (finished)	24.00
Holding room (finished)	15.00
Ticket counter (finished)	30.00
Ground transportation booth (finished)	30.00

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Gate house	21.00
Concessionaire - sales (finished)	30.00
Concessionaire - restaurant (finished)	30.00
Baggage make-up and breakdown	9.60
Baggage claim	9.60
Concessionaire storage	9.60
Conveyor tunnel	6.00
Group tour baggage	6.00
Terminal floor space	30.00
VIP lounge (finished)	30.00
VIP lounge (loft)	25.00
Greeter service counter	24.00
Baggage lost & found office	24.00

Air Taxi Building

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office (finished)	\$24.00
Ticket counter (finished)	27.00

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$3.60	\$3.00
Open equipment parking	2.15	1.80

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Covered	\$75.00
Uncovered	70.00

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$2.88	\$2.16
Open equipment parking	1.80	1.68

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Covered	\$75.00
Uncovered	70.00

Kapalua-West Maui Airport

Terminal Building

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$30.00
Office - second floor (finished)	24.00
Office - second floor (loft)	18.00
Ticket counter	30.00
Holdroom	24.00
Terminal floor space	30.00
Baggage make-up and breakdown	9.00
Baggage claim	9.00
Concession (restaurant)	24.00
Concession (sales)	24.00
Storage	24.00
Ramp office	18.00

Exhibit 1 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$3.00	\$2.00
Open equipment parking	1.65	1.50

Lanai Airport

Terminal Building 302

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$7.80
Office - ground floor (loft)	10.80
Ticket counter	10.80
Holdroom	10.80
Terminal floor space	10.80
Baggage make-up and breakdown	3.60
Baggage claim	7.20
Concession (loft)	7.80
Concession (finished)	10.80
Storage	7.80

Terminal Building 301

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office - ground floor (finished)	\$10.50
Ticket counter	10.50
Baggage make-up and breakdown	3.50
Baggage claim	3.50
Concession (loft)	10.50

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (**)
Effective July 1, 1994

Ramp Area

<u>Type of space</u>	Rate per sq ft per annum	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$2.50	\$1.75
Open equipment parking	1.80	1.25

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Covered	\$12.00
Uncovered	9.00

Waimea-Kohala Airport

Terminal Building

<u>Type of space</u>	Rate per sq ft per annum
Office (finished)	\$9.00
Ticket counter (finished)	9.00
Baggage make-up breakdown (finished)	3.00
Baggage claim (finished)	3.00
Concessionaire (loft)	9.00
Ground transportation booth	9.00

Ramp Area

<u>Type of space</u>	Rate per sq ft per annum	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$2.50	\$1.75
Open equipment parking	1.80	1.25

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Automobile Parking Stalls

Monthly rate/stall

Covered	\$15.00
Uncovered	10.00

Molokai Airport

Terminal Building

<u>Type of space</u>	<u>Rate per sq ft</u> <u>per annum</u>
Office (finished)	\$14.40
Ticket counter (finished)	14.40
Baggage make-up breakdown (finished)	5.00
Baggage claim (finished)	5.00
Holding room and airport lounge	13.20
Concessionaire (loft)	14.40
Ground transportation booth	14.40

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u> <u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$3.60	\$3.00
Open equipment parking	2.15	1.85

Automobile Parking Stalls

Monthly rate/stall

Covered	\$20.00
Uncovered	15.00

Exhibit 3 to the Extension

Airports System Signatory Airline Rates and Charges
Established by the Extension (*)
Effective July 1, 1994

Hana Airport

Terminal Building

<u>Type of space</u>	<u>Rate per sq ft per annum</u>
Office (finished)	\$9.00
Ticket counter (finished)	9.00
Baggage make-up breakdown (finished)	3.00
Baggage claim (finished)	3.00
Concessionaire (loft)	9.60
Ground transportation booth	9.60

Ramp Area

<u>Type of space</u>	<u>Rate per sq ft per annum</u>	
	<u>Paved</u>	<u>Unpaved</u>
Covered equipment parking	\$2.50	\$1.75
Open equipment parking	1.80	1.25

Automobile Parking Stalls

	<u>Monthly rate/stall</u>
Covered	\$12.00
Uncovered	9.00

DEPARTMENT OF TRANSPORTATION

Repeal of Chapters 19-16, 19-18 and 19-19, and
Adoption of Chapter 19-16.1
Hawaii Administrative Rules
July 22, 1994

SUMMARY

1. Chapters 19-16, 19-18 and 19-19, Hawaii Administrative Rules, are repealed.

2. Chapter 19-16.1, Hawaii Administrative Rules, entitled "Airports System Fees and Charges Applicable to Non-Signatory Carriers" is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 16.1

AIRPORTS SYSTEM FEES AND CHARGES
APPLICABLE TO NON-SIGNATORY CARRIERS

§19-16.1-1	Definitions
§19-16.1-2	Fees and charges
§19-16.1-3	Airports system landing fee
§19-16.1-4	Airports system support charge
§19-16.1-5	Aviation fuel tax credit
§19-16.1-6	Charge for joint use area in the interisland terminal
§19-16.1-7	Charge for joint use area in the overseas terminal
§19-16.1-8	Charge for international arrivals area
§19-16.1-9	Reporting requirements; determinations
§19-16.1-10	Time and place of payment
§19-16.1-11	Exemptions
§19-16.1-12	Penalty
§19-16.1-13	Severability

§19-16.1-1 Definitions. Unless the context clearly indicates otherwise, as used in this chapter: "Airfield activity center" means the airfield areas of all airports in the airports system, including, but not limited to, the runways, taxiways, aprons, aircraft parking areas, security fencing, secure service roadways, aircraft rescue and crash fire stations, and related areas and facilities.

"Airports system" means the state-wide system of airports including all airports, air navigation facilities, and other related facilities and properties (real, personal, or mixed), and any rights or interests in airports, air navigation facilities, and other related facilities and related properties, now or hereafter belonging to or controlled by the State or under the administration, jurisdiction, control, and management of the State, and all equipment, improvements, extensions, or betterments thereto hereafter constructed or acquired.

"Airports system landing fee" means the fee imposed by the department per one thousand pounds of approved maximum landed weight for landing of aircraft at an airport in the airports system.

"Airports system terminal plan" means that document which identifies the commuter terminal, the overseas terminal, the interisland terminal and the international arrivals area, at HIA on file in the office of the director.

"Airports system support charge" means the charge imposed by the department per one thousand pounds of approved maximum landed weight to recover residual costs of the airports system.

"Approved maximum landed weight" means the maximum landed weight for an aircraft as authorized in the aircraft flight manual by the Federal Aviation Administration. If an aircraft is registered in a foreign country and has not been certified by the Federal Aviation Administration, the approved maximum landed weight shall be the maximum landed weight authorized by the foreign country.

"Aviation fuel taxes" means the taxes established by section 243-4(a)(2), Hawaii Revised Statutes.

"Department" means the department of transportation of the State.

"Director" means the director of the department.

"Distributor" means and includes:

- (1) Every person who refines, manufactures, produces, or compounds liquid fuel and sells it within the State;
- (2) Every person who imports or causes to be imported into the State any liquid fuel and

sells it therein, whether in the original packages or containers in which it is imported, or otherwise than in such original packages or containers, or who imports any such fuel for the person's own use in the State;

- (3) Every person who acquires liquid fuel from a non-licensed distributor and who sells or uses it, whether in the original package or container in which it was imported (if imported), or otherwise than in such original packages or containers; and
- (4) Every person who acquires liquid fuel from a licensed distributor as a wholesaler thereof and sells or uses it; and
- (5) Every person referred as a "distributor" in chapter 243, Hawaii Revised Statutes.

"Honolulu International Airport" or "HIA" means the real property including all buildings, structures, facilities, and other betterments constituting Honolulu International Airport, or as Honolulu International Airport may hereafter be modified or expanded.

"Interisland landing" means any landing by an aircraft whose flight originated at an airport in the State.

"Interisland terminal" means that area of HIA identified as such in the airports system terminal plan as amended from time to time.

"International arrivals area" means that area of HIA identified as such in the airports system terminal plan as amended from time to time.

"Joint use area" means all baggage claim, hold room, baggage makeup, baggage break-down, tug drive, and any other space available for shared use by aircraft operators in the airports system terminal buildings as identified as such in the airports system terminal plan as amended from time to time.

"Landing" means any landing by an aircraft at an airport in the airports system, including passenger landings, cargo landings, interisland landings, and overseas landings, provided, however, landing shall not include a landing by an aircraft that returns to an

airport in the airports system because of weather, mechanical, emergency, or precautionary reasons.

"Non-signatory carrier" means any operator of an aircraft, any employee of such operator, or any person who has the authorized use of the aircraft for the purposes of its operation, other than a signatory carrier, utilizing any services, facilities, and commodities of the airports system, including, without limitation, corporate, commuter, and charter operators.

"Overseas landing" means any landing by an aircraft whose flight originated at an airport which is not situated in the State.

"Overseas terminal" means that area of MIA identified as such in the airports system terminal plan as amended from time to time.

"Passenger landing" means any landing at an airport in the airports system by an aircraft carrying principally passengers (including corporate aircraft landings).

"Retail dealer" means and includes a person who purchases liquid fuel from a licensed distributor, and sells the liquid fuel at retail. Only sales of liquid fuel for consumption or use by the purchaser, and not for resale, are sales at retail, or as otherwise defined in chapter 243, Hawaii Revised Statutes.

"Signatory Carrier" means any operator of an aircraft, any employee of such operator, or any person who has the authorized use of the aircraft for the purposes of its operation, utilizing any services, facilities, and commodities of the airports system, including passenger or cargo or any combination, and which has executed and delivered a valid and binding agreement with the State providing for fees and charges payable by such operator at the entire airports system, which agreement has not terminated and is effective with respect to such operator. Such term shall not apply to operators, their employees, or other such persons having agreements applicable to only portions of the airports system.

"State" means the State of Hawaii.

(Eff: AUG 25 1934) (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-16.1-2 Fees and charges. The fees and charges established by this chapter shall be applicable to all non-signatory carriers except those non-signatory carriers who qualify for exemption as established in section 19-16.1-11. (Eff AUG 25 1994)
(Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-3 Airports system landing fee. There shall be imposed an airports system landing fee under this chapter for the purpose of recovering costs attributable to the airfield activity center; this fee shall be based on landings at an airport in the airports system. The airports system landing fee for an overseas landing at an airport in the airports system shall be \$2.980 per one thousand pounds of approved maximum landed weight. The airports system landing fee for an interisland landing at an airport in the airports system shall be \$0.954 per one thousand pounds of approved maximum landed weight.
(Eff AUG 25 1994) (Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-4 Airports system support charge. There shall be imposed an airports system support charge under this chapter for the purpose of recovering residual costs of the airports system required in order to comply with federal and state laws by making the airports system self-sustaining; this charge shall be based on landings at an airport in the airports system. The airports system support charge for an overseas landing at an airport in the airports system shall be \$0.618 per one thousand pounds of approved maximum landed weight. The airports system support charge for an interisland landing at an airport in the airports system shall be \$0.198 per one thousand pounds of approved maximum landed weight. (Eff AUG 25 1994)
(Auth: HRS §§39-61, 261-7) (Imp: HRS §261-7)

§19-16.1-5 Aviation fuel tax credit. There shall be credited against the amount of airports system landing fees and airports system support charges imposed by this chapter and owed for a particular calendar month, the amount of the aviation fuel taxes collected from such non-signatory carrier by a distributor of aviation fuel for the sale of such fuel within the State to such carrier during the same month; provided that, if aviation fuel is purchased by such non-signatory carrier from a retail dealer there shall be credited against the amount of airports system landing fees and airports system support charges imposed by this chapter and owed by such carrier for a calendar month an amount equal to the number of gallons purchased from the retail dealer times the applicable aviation fuel tax per gallon as prescribed in chapter 243, Hawaii Revised Statutes. The credit for aviation fuel tax shall be valid only if the retail dealer holds a permit from the state department of taxation.

No credit for aviation fuel tax shall be given unless there shall be submitted within six months after the date of payment, a claim in writing by the non-signatory carrier accompanied by a statement signed by the distributor certifying: (1) to the amount of aviation fuel taxes collected, (2) that the amount of aviation fuel taxes has been paid to the state director of taxation, and (3) that the aviation fuel taxes have not been paid either under protest by the distributor pursuant to section 40-35, Hawaii Revised Statutes, or pending determination of an appeal from the assessment of the taxes by a court of competent jurisdiction. In case the distributor has paid the aviation fuel taxes under protest or under appeal, credit shall be allowed only in the event the final decision of the cause is in favor of the State, and the amount of credit may then be taken, first as a credit against any current airports system landing fee paid, and the balance, if any, as a credit against any current airports system support charge paid.

In no event shall the credit for the aviation fuel tax be given where the amount of the aviation fuel taxes paid by a non-signatory carrier in a month exceeds the amount of airports system landing fees and

airports system support charges paid by such carrier in the same month. [Eff AUG 25 1994] (Auth: HRS §261-12) (Imp: HRS §261-7)

§19-16.1-6 Charge for joint use area in the interisland terminal. The charge for use of the joint use area in the interisland terminal shall be \$69.375 per passenger landing at the interisland terminal. [Eff AUG 25 1994] (Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-7 Charge for joint use area in the overseas terminal. The charge for use of the joint use area in the overseas terminal shall be \$457.344 per passenger landing at the overseas terminal. [Eff AUG 25 1994] (Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-8 Charge for international arrivals area. The charge for use of the international arrivals area shall be \$3.346 for each passenger who deplanes from an international flight and uses the international arrivals area. [Eff AUG 25 1994] (Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-9 Reporting requirements; determinations. (a) Non-signatory carriers shall submit a monthly report to the department containing the following aviation activity statistics for each airport in the airports system within fifteen days following the end of each month in which the aviation activity occurs:

- (1) Number of landings;
- (2) Number of passenger landings;
- (3) Number of cargo landings;
- (4) Approved maximum landed weight of the aircraft involved in each landing;
- (5) Enplaned and deplaned domestic passengers;

- (6) Enplaned and deplaned international passengers;
- (7) any other information necessary for the calculation of non-signatory carrier fees and charges as established by this chapter; and
- (8) All other reasonable information requested by the director.

(b) Whenever a determination as to the applicability of any fees and charges is necessary under this chapter, such determination shall be made by the director based on the best available information, including reports submitted as required by this section. [Eff AUG 25 1994] (Auth: HRS §§39-61, 261-12) (Imp: HRS §261-7)

§19-16.1-10 Time and place of payment. (a)

The airports system landing fee and airports system support charge imposed by this chapter shall be payable immediately after a landing unless a bond is posted with the department, in which case the airports system landing fee and airports system support charge shall be payable together with the monthly reports submitted pursuant to section 19-16.1-9. Except for the airports system landing fee and the airports system support charge, all other charges shall be paid within thirty days of the end of the month in which the fee or charge was incurred.

(b) Non-signatory carriers operating in the airports system may post a cash bond or a bond by a surety company authorized to do business under the laws of the State. The bond shall be in the amount of \$10,000 for non-signatory carriers operating aircraft entirely within the State and \$50,000 for all others.

(c) Failure to pay or provide for the payment of the fees and charges imposed pursuant to this chapter shall result in an interest charge of one per cent per month, compounded monthly, until paid. In addition to interest charges, late fees payable under chapter 19-6, Hawaii Administrative Rules, shall also apply. Failure to pay or provide for the payment of the fees and charges imposed pursuant to this chapter may also

result in the impoundment of the aircraft or the imposition of other penalties as permitted by law.

(d) All payments shall be made at the airports division, department of transportation, at HIA, or at any of the district offices on Maui, Hawaii, or Kauai.
(Eff: AUG 25 1994) (Auth: HRS §261-12) (Imp: HRS §261-7, 261-7.5)

§19-16.1-11 Exemptions. This chapter shall not apply to the following types of aircraft:

- (1) Aircraft owned or operated by the:
 - (A) Government of the United States, or any agency or department thereof;
 - (B) State or any of its counties or any agency or department thereof; or
 - (C) Civil Patrol.
- (2) Aircraft with less than 12,500 pounds approved maximum landed weight using the airports system for aircraft flight training purposes, emergencies, private transportation, or test landings.
- (3) Aircraft with more than 12,500 pounds approved maximum landed weight and a maximum seating capacity of less than 20 passengers and not operating under the provisions of the Federal Aviation Regulations, 14 CFR parts 121, 125, 127 or 129, using the airports system for aircraft flight training purposes, emergencies, private transportation, or test landings.
(Eff: AUG 25 1994) (Auth: HRS §261-12)
(Imp: HRS §261-7)

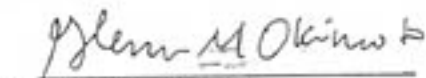
§19-16.1-12 Penalty. Penalties for violations of this chapter shall be as set forth in sections 261-7 and 261-7.5, Hawaii Revised Statutes.
(Eff: AUG 25 1994) (Auth: HRS §261-7, 261-7.5, 261-12) (Imp: HRS §261-21)

§19-16.1-13 Severability. If any provision of this chapter or the application thereof is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. If a particular application of any fee or charge hereunder is held invalid and provision is made for a different application of such fee or charge, such different application shall apply to all non-signatory carriers. [Eff. AUG 25 1994] (Auth: HRS §261-12) (Imp: HRS §261-12)


DEPARTMENT OF TRANSPORTATION

The repeal of chapters 19-16, 19-18 and 19-19 and the adoption of chapter 19-16.1, Hawaii Administrative Rules, noted on the Summary Page dated July 22, 1994, were approved on July 22, 1994, following public hearings held on June 22, 23 and 24, 1994, after public notices were given in the Honolulu Advertiser, Honolulu Star-Bulletin, Hawaii Tribune-Herald, West Hawaii Today and Garden Island on May 20, 1994.

The repeal of chapters 19-16, 19-18 and 19-19, and the adoption of chapter 19-16.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.


REX D. JOHNSON
Director of Transportation

APPROVED:


JOHN WAIHEE
Governor
State of Hawaii

Date: AUG 11 1994

APPROVED AS TO FORM:


Deputy Attorney General

Filed: AUG 15 1994

DEPARTMENT OF TRANSPORTATION

Amendments to Chapter 19-16.1
Hawaii Administrative Rules

January 13, 1998

SUMMARY

1. §19-16.1-3 is amended.
2. §19-16.1-4 is amended.

§19-16.1-4 Airports system support charge. (a)

There shall be imposed an airports system support charge under this chapter for the purpose of recovering residual costs of the airports system required in order to comply with federal and state laws by making the airports system self-sustaining; this charge shall be based on landings at an airport in the airports system. The airports system support charge for an overseas landing at an airport in the airports system shall be \$0.618 per one thousand pounds of approved maximum landed weight. The airports system support charge for an interisland landing at an airport in the airports system shall be \$0.198 per one thousand pounds of approved maximum landed weight.

(b) Effective September 1, 1997, the support charges prescribed by this section shall be suspended for a period of two years. The suspended charges shall be reinstated on September 1, 1999. The director, however, may revoke this fee suspension at any time upon 30 days prior written notice. [Eff 8/25/94; an MAR 02 1998] (Auth: HRS §§39-61, 261-12) (Imp: HRS § 261-7)

DEPARTMENT OF TRANSPORTATION

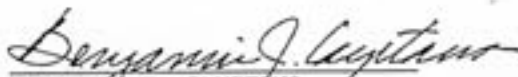
Amendments to chapter 19-16.1, Hawaii Administrative Rules, on the Summary Page dated January 13, 1998, were adopted on January 13, 1998, following public hearings held on December 16 and 17, 1997, after public notice was given in the Honolulu Advertiser, Honolulu Star-Bulletin, Maui News, West Hawaii Today and Garden Island on November 10, 1997.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.



KAZU HAYASHIDA
Director of Transportation

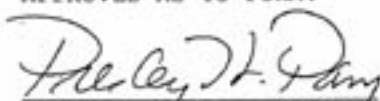
APPROVED:



BENJAMIN J. CAYETANO
Governor of Hawaii

DATE: 2/18/98

APPROVED AS TO FORM:


Deputy Attorney General
PRESLEY W. PANG

FILED: FEB 19 1998

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LEUTENANT GOVERNOR'S
OFFICE

DEPARTMENT OF TRANSPORTATION
Amendments to Chapter 19-16.1
Hawaii Administrative Rules

July 29, 1998

SUMMARY

§19-16.1-5 is amended.

§19-16.1-5 Aviation fuel tax credit. (a) There shall be credited against the amount of airports system landing fees and airports system support charges imposed by this chapter and owed for a particular calendar month, the amount of the aviation fuel taxes collected from such non-signatory carrier by a distributor of aviation fuel for the sale of such fuel within the State to such carrier during the same month; provided that, if aviation fuel is purchased by such non-signatory carrier from a retail dealer there shall be credited against the amount of airports system landing fees and airports system support charges imposed by this chapter and owed by such carrier for a calendar month an amount equal to the number of gallons purchased from the retail dealer times the applicable aviation fuel tax per gallon as prescribed in chapter 243, Hawaii Revised Statutes. The credit for aviation fuel tax shall be valid only if the retail dealer holds a permit from the state department of taxation.

(b) No credit for aviation fuel tax shall be given unless there shall be submitted within six months after the date of payment, a claim in writing by the non-signatory carrier accompanied by a statement signed by the distributor certifying: (1) to the amount of aviation fuel taxes collected, (2) that the amount of aviation fuel taxes has been paid to the state director of taxation, and (3) that the aviation fuel taxes have not been paid either under protest by the distributor pursuant to section 40-35, Hawaii Revised Statutes, or pending determination of an appeal from the assessment of the taxes by a court of competent jurisdiction. In case the distributor has paid the aviation fuel taxes under protest or under appeal, credit shall be allowed only in the event the final decision of the cause is in favor of the State, and the amount of credit may then be taken, first as a credit against any current airports system landing fee paid, and the balance, if any, as a credit against any current airports system support charge paid.

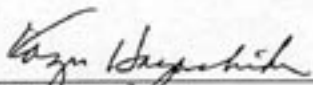
(c) In no event shall there be a credit for any aviation fuel taxes greater than the amount paid by a non-signatory carrier in a month for airports system landing fees and airports system support charges; except, however, during any period the airports system landing fee or the airports system support charge is suspended, the aviation fuel tax collected may be credited against any other rentals, fees and charges (other than taxes, fines, penalties, or interest) payable by a non-signatory carrier to the state airports division for the use of the airports system.

[Eff. 8/25/94; am. **OCT 10 1998**]
(Auth: HRS §261-12) (Imp: HRS §261-7)

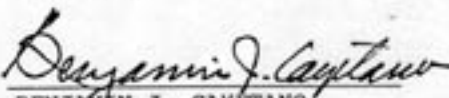
DEPARTMENT OF TRANSPORTATION

Amendments to chapter 19-16.1, Hawaii Administrative Rules, on the Summary Page dated July 29, 1998, were adopted on July 29, 1998, following public hearings held on June 29 and 30, 1998, after public notice was given in the Honolulu Advertiser, Honolulu Star-Bulletin, Maui News, Hawaii Tribune-Herald and Garden Island on May 18, 1998.


These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.


KAZU HAYASHIDA
Director of Transportation

APPROVED:


BENJAMIN J. CAYETANO
Governor
State of Hawaii
DATE: 9/29/98

APPROVED AS TO FORM:


Deputy Attorney General

FILED: OCT 01 1998

LIEUTENANT GOVERNOR'S
OFFICE
98 OCT -1 A9

Department of Transportation

SUBLEASE EVALUATION POLICY

Reference

Chapter 171-36(a)(6), Hawaii Revised Statutes

"The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board; provided that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee; provided further that in the case where the lessee is required to pay rent based on a percentage of its gross receipts, the receipts of the sublease shall be included as part of the lessee's gross receipts; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee including the percentage rent, if applicable, and provided that the rent may not be revised downward;" (Amended 1992)

Purpose

The purpose of the sublease evaluation policy is to prevent speculation.

The basic rationale or philosophy behind the sublease evaluation policy is that the State, as mandated by statutes, should not allow anyone to make sandwich profits from the use of State-owned land, but, at the same time, recognize the sublessor's right to make a fair return for the investment.

When the State determines that "sandwich profits" are being realized, the State may take such action as it deems necessary, including, without limitation:

- (1) limiting the amount of rent charged to the sublessee; or
- (2) permit the sublessor to receive the sublease rental but increase the lease rent paid to the State by the amount of the sandwich profit determined by the State.

The State may reevaluate the "sandwich profit" on an annual basis.

Procedure

At the time the lessee requests approval of a sublease, the lessee shall submit any and all information the DOT deems necessary to properly analyze the proposed sublease, including, without limitation, the proposed sublease document, floor plans of the leased premises and the premises to be subleased, plans for any and all proposed improvements, estimated operating and other costs, total investment of the lessee, the proposed payments to DOT for permitting the sublease and any other financial information.

As part of its analysis of the proposed sublease, the State will consider:

- a. data found in the real estate market, including, without limitation, data relating to what other investors are experiencing for similar/comparable investments; and
- b. those allowances and operating expenses that are properly attributable to the subleased premises.

To qualify as properly attributable to the subleased premises and therefore eligible for deduction from the effective sublease income (gross annual sublease income minus the general excise taxes paid and/or payable), such allowances (including, without limitation, reserves for replacement of

limited life items) and operating expenses must be reasonable, legitimate, adequately justified by the lessee and approved by the State. The operating expenses are to be prorated on an annual basis. Operating expenses are the periodic expenditures necessary to maintain the real property and continue the production of the effective gross income and include, but are not limited to the following:

1. Fixed Expenses - Fixed Expenses are operating expenses that generally do not vary with occupancy and have to be paid whether the property is occupied or vacant (i.e. real estate taxes, building insurance costs, etc.).
2. Variable Expenses - Variable Expenses are operating expenses that generally vary with the level of occupancy or the extent of services provided (i.e. utilities, painting, repair, maintenance, etc.).
3. Reserve for Replacement Allowances - Reserve for Replacement Allowances provides for the periodic replacement of building components that wear out more rapidly than the building itself and must be replaced periodically during the buildings economic life (i.e. roofing, carpeting, sidewalks, driveways, parking areas, etc.).
4. Lease Rental - The lease rental amount shall be the proportionate share of the total lease rent attributable to the subleased premises, based on the proportion the subleased area bears to the entire leased premises.

The Fixed Expenses, Variable Expenses and the Reserve for Replacement Allowances shall be prorated based on the proportion the leasable area of the sublease premises bears to the total leasable area of the building.

(For a detailed explanation on allowable operating expenses, please refer to Chapter 19, "Income Estimates," The Appraisal of Real Estate, Ninth Edition or such later edition, as applicable, prepared by the Textbook Revision Committee of the American Institute of Real Estate Appraisers.)

A reasonable return on the sublessor's investment which includes recapture of the sublessor's investment and some amount of profit is allowed. The allowance is the result of multiplying the sublessor's total investment in the subleased area by the Investment Return Rate.

The "Investment Return Rate" used in this DOT Sublease Evaluation Policy will be the sum of the following rates:

- a. Treasury bonds rate. The interest rate for Fifteen (15) year Treasury bonds in effect at the time the proposed sublease is being evaluated, as listed in the Wall Street Journal, or if not available, such similar publication as mutually agreed upon by the lessor and the lessee;
- b. Capital recapture rate. The annual percentage rate which would enable the lessee to recover the lessor's investment in the improvements constructed on the leased premises over the term of the lease (hereinafter the "capital recapture rate"). For example, if the lease term is twenty-five (25) years, the capital recapture rate shall be four percent (4%) per year; and
- c. Premium rate. A premium rate of two percent (2%).

The existing DOT lease rent attributable to the subleased area is also subtracted from the sublease income. Any balance remaining is the sandwich profit. If the State selects the option to approve the sublease rental, then the sandwich profit will be paid to DOT.

Should the State decide to consent to the sublease but limit the amount of rental charged to the sublease, the maximum allowable sublease income may be determined by applying the following mathematical equation:

$$M \cdot T + R(M \cdot T) - E = 0$$

whereby,

M = maximum allowable sublease income

T = general excise tax

R = rate for management and vacancy loss (10%)

E = total allowances excluding management and general excise tax*

*when applicable

Solving for M:

$$M = \frac{E + T \cdot RT}{1 - R}$$

Effect of Termination or Involuntary Assignment

In the event that a lease or sublease becomes available to a new lessee or sublessee as a result of the involuntary termination of the lease or sublease by foreclosure of the lien of any mortgagee's interest in the leased or subleased premises (whether by court order or otherwise), the purchaser/assignee thereof and the interest so acquired shall not be subject to the requirements of this DOT Sublease Evaluation Policy. Subsequent subleases shall be subject to the requirements of this DOT Sublease Evaluation Policy.

**NON SIGNATORY CARRIER
RATES AND CHARGES SCHEDULE**

State of Hawaii
Department of Transportation
Airports Division
Sept. 1, 1994

Description	Rates
Airports System Landing Fee - Overseas	\$2.980 / per 1,000 lb unit of landed weight
Airports System Landing Fee - Inter-Island	\$0.954 / per 1,000 lb unit of landed weight
Airports System Support Charge - Overseas	\$0.618 / per 1,000 lb unit of landed weight
Airports System Support Charge - Interisland	\$0.198 / per 1,000 lb unit of landed weight
Charge for Joint Use Area in the Interisland Terminal - HIA	\$69.375 per revenue passenger landing
Charge for Joint Use Area in the Overseas Terminal - HIA	\$457.344 per revenue passenger landing
International Arrivals Area Use Charge - HIA	\$3.346 / per deplaning int'l pax

